

In the Drawings

Applicant submits herewith two sheets of drawing, containing new Figures 1 and 2, as required by the Office. The Figures illustrate that which was described in the application as filed, and thus presents no new matter.

REMARKS

Petition for Extension of Time Under 37 CFR 1.136(a)

It is hereby requested that the term to respond to the Office Action of April 28, 2009 be extended three months, from July 28, 2009 to October 28, 2009.

The Commissioner is hereby authorized to charge the RCE filing fee and the extension fee, and any additional fees associated with this communication, to Deposit Account No. 50-4364.

In the Office Action, the Office indicated that claims 1 through 13 are pending in the application and the Office rejected all of the claims.

The Drawings

On page 2 of the Action, the Office required applicant to furnish a drawing under 37 CFR §1.81(c). Applicant submits herewith two sheets of drawings, containing new Figures 1 and 2. Figures 1 and 2 illustrate the invention as described in the application as filed. Accordingly, no new matter is presented in these drawings. Applicant respectfully requests the Office to accept the enclosed drawings and insert them into the application.

Rejections under §§102 and 103

On page 2 of the Office Action, the Office rejected claims 1-3, 5, 6, 12 and 13 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,831,970 to Awada et al.

On page 7 of the Office Action, the Office rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over Awada in view of U.S. Patent Application Publication No.

2008/0261633 to Lazaridis et al., and rejected claims 7-11 under 35 U.S.C. §103(a) as being unpatentable over Awada in view of U.S. Patent Application Publication No. 2004/0086094 to Bosik et al.

The Present Invention

The claimed invention concerns automatic modification of the behaviour of a device by separate first and second applications, *both of which run on the device*. The first application receives user-entered time sensitive information, and the second application automatically changes the behaviour of the device based upon this information. As an example, consider the following: Time sensitive information is entered into an application on a device; this, for example, may be an entry (e.g. 'meeting', or 'lunch with Bob') against specific times in an agenda or calendar application. Then, a different application on the same device utilizes that information to modify the device behavior appropriately. For example, assume the 'meeting' in the calendar application is listed to last between 10 am and 11 am; then, using the claimed invention, during that hour, the telephone application in the device (that enables telephone functions of the device to be controlled) can automatically be set to a 'silent' profile so that the device does not ring on an incoming call, but instead only vibrates.

There are numerous problems that are inherent to such operation, which would seemingly require that both programs have been specially written to interface with each other. What has been developed by the inventor is that a special insulating layer is placed between the first and second applications. This insulating layer is implemented as an intermediate server that relays the information between the applications. It is possible that the server could

be implemented in hardware entity, but within the context of the Symbian OS™ operating system it is widely known that “server” commonly refers to a software component that provides information to other software components within a single device. The server would more commonly be implemented as a software module that is run on the same device as the first and second application – however the exact location of the server does not impact the functionality of the claimed invention.

The Cited Prior Art Does Not Anticipate the Claimed Invention

The MPEP and case law provide the following definition of anticipation for the purposes of 35 U.S.C. §102:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) M.P.E.P. §2131.

Claims 1 and 13 have been amended to clarify the nature of the intermediate server, which acts as an insulating layer between the first and second applications. In particular, it is now explicit in the claims that the intermediate server presents a generic Application Programming Interface (API), over which the data is provided to the second application.

The Office has alleged that *Awada* teaches an intermediate server as required by the *unamended* claims. The Applicant respectfully disagrees with this assertion, but submits that the differences between the intermediate server required by the *amended* claims and the server on which the remote profile activator of *Awada* resides are clearer in the amended claims and that these entities cannot be considered equivalent.

As noted above, one of the concerns of the claimed invention is the automatic modification of the behaviour of a device by separate first and second applications, *both of which run on the device*. The first application receives user-entered time sensitive information, and the second application automatically changes the behaviour of the device based upon this information. There are numerous problems that are inherent to such operation, which would seemingly require that both programs have been specially written to interface with each other.

The claimed invention provides a special insulating layer between the first and second applications. This insulating layer is implemented as an intermediate server that relays the information between the applications. The provision of an insulating server that presents a generic API removes the requirement that the first and second applications be specially written to interface with one another, since it handles the routing of the information between them, and can attend to any requirements regarding translation or conflict management. It is therefore not necessary that the applications use the same protocols to transfer information, or are preconfigured into a sharing pair. Instead, associations between multiple information sources (first applications) and behaviour changers (second applications) can be handled on-the-fly (for example using publish and subscribe arrangements (as discussed in the description) with associations, conflicts, and incompatibilities all managed centrally and transparently to the applications.

Some of the advantages to using an intermediate server with a generic API are discussed in paragraphs [0035] through [0039] of the published US application. These arise because of the generic nature of the interface presented to the second application and the

inclusion of the insulating layer in order that processing can be performed on the information received from the first application(s). Note that the data that is sent to the second application is only *based on* the time sensitive information – the server is more than a channel for routing the information untouched.

The system of *Awada* is very different from the arrangement that is now claimed, and addresses very different problems – for example, col.2, ll.32-34 of *Awada* state “What is needed is a method and system that avoids unnecessary duplication of effort by allowing remote system activation of a telephone profile”. This is achieved by providing a profile application activator (e.g. a calendar application) remote from a phone, which receives user input and then itself sends profile activation information directly to the phone where the phone’s firmware changes the active profile in direct response to this information. This is a one-to-one interaction between specially written software/firmware – there is no suggestion anywhere in *Awada* that such information can be received from more than one profile application activator, and the implication is that the profile application activator has been specially written to interface directly with the phone.

The Office appears to suggest that the fact that the profile application activator in *Awada* is located remote from the phone implies that the information it sends will necessarily arrive at the phone’s firmware via a server. A conventional communication server operational to propagate this information to the phone cannot be considered equivalent to the “intermediate server” that has been described in the present application, and the claims have been amended to clarify this distinction. It is now a requirement of the claims that the

intermediate server presents a generic API, and that the communication of the data to the second application is performed over the generic API.

The use of a generic API significantly distinguishes the intermediate “server” of the amended claims from the conventional communication server that might be used as part of the communication train in *Awada*. In particular, the generic API ensures that the functions of the intermediate server are hidden from at least the second program(s), allowing access to the time sensitive data to be provided without any required knowledge as to the specifics of the time aware application. The intermediate server therefore provides the transparent intermediate layer. Rather than simply relaying messages, a server that operates using a generic API can manage the routing of data based on the received time sensitive information in a more intelligent manner. It can, as described above, be used to route time sensitive data from one or more first programs to one or more second programs and provides a platform that can be used to handling conflict situations. This avoids the need for specially adapted and matched first and second programs – any processing can instead be performed transparently within the intermediate layer. It is the implementation of an intermediate server with a generic API that enables these advantages – and this is not something that is present in *Awada*, where such advantages are not achievable.

A particular advantage to the generic API implementation is that applications do not need to be specially written to anticipate other potentially conflicting programs (or other functionality) that might be present on a particular device. Instead, a standard program can simply be ‘plugged into’ the device, all the necessary interfacing being performed outside the program in the intermediate server.

Regarding the presence of a server *at all* in *Awada*, it should be noted that the claims require the first and second application to be present on the same device. The proposal that *Awada* requires a server to be present is based upon the fact that the profile application activator (calendar application) is remote from the phone and would therefore normally be expected to communicate with it via one or more servers, but were the profile application activator resident on the phone (i.e. the first and second applications are on the same device – as required by all of the pending claims) then it would not make any sense for such a server to be present. In this case, the activation information sent in *Awada* cannot be considered to be sent via any server at all – not least via an intermediate server that presents a generic API and therefore enables all of the many advantages that are discussed above and in the Applicant's description.

In view of the above, it is respectfully submitted that *Awada* fails to disclose all of the features of the independent claims (and thus *Awada* fails to disclose all of the features of the dependent claims, as well). In particular, *Awada* fails to teach or suggest an intermediate server that presents a generic API and provides data to the second application over the generic API. For at least this reason, the claims are novel over *Awada*. Accordingly, the Office is respectfully requested to reconsider and withdraw the rejection of claims 1-3, 5, 6, 12 and 13 under 35 U.S.C. §102.

A Prima Facie Case of Obviousness Has Not Been Established

KSR (*KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007) requires that the Office provide “some articulated reasoning with some rationale

underpinning to support the legal conclusion of obviousness.” Further, the Office must “identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does,” In addition, the Office must make “explicit” this rationale of “the apparent reason to combine the known elements in the fashion claimed,” including a detailed explanation of “the effects of demands known to the design community or present in the marketplace” and “the background knowledge possessed by a person having ordinary skill in the art.”

Neither *Lazaridis* nor *Bosik*, taken alone or combined with *Awada*, provide the reasons appropriate to support a finding of non-obviousness. *Lazaridis* is relied upon by the Examiner for an alleged teaching of a user controlling which features of a mobile phone are activated, in which the features include activating an alarm at a specified time. Like *Awada*, however, *Lazaridis* provides no teaching or suggestion of an intermediate server that presents a generic API and provides data to the second application over the generic API.

Bosik is concerned with the provision of notifications to a mobile device from a remote source. It is not concerned with the automatic modification of a device’s behaviour based on time sensitive information provided locally from the device. What is more, there is no suggestion in *Bosik* that an intermediate server *that presents a generic API* is used to route such information or perform any other function (e.g. translation, subscription management, conflict management, etc.) Instead, some degree of conflict management is provided by the Notification Management System (NMS) to determine the order etc. in which events will be notified to the device from the remote location. Changes to the notifications or their order

cannot be considered a modification of the behaviour of the device – the device responds to them with exactly the same behaviour with which it has been preconfigured.

Not only is it not possible to combine *Awada* and *Bosik* and/or *Lazardis* in order to provide all of the features required by the amended claims, but neither *Bosik* nor *Lazardis* are even particularly relevant to the claims as amended.

For the above reasons, the Office is respectfully requested to reconsider and withdraw the rejection of claims 4 and 7-11 under 35 U.S.C. §103.

Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Office is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees associated with this communication to applicant's Deposit Account No. 50-4364.

Respectfully submitted

October 28, 2009
Date

/Mark D. Simpson/
Mark D. Simpson, Esquire
Registration No. 32,942

SAUL EWING LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102-2189
Telephone: 215 972 7880
Facsimile: 215 972 4169
Email: MSimpson@saul.com